



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/739,162	12/19/2000	Robert T. Moton JR.	BS00-067	3986

28970 7590 09/09/2004

SHAW PITTMAN
IP GROUP
1650 TYSONS BOULEVARD
SUITE 1300
MCLEAN, VA 22102

EXAMINER

DAVIS, TEMICA M

ART UNIT	PAPER NUMBER
----------	--------------

2681

13

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/739,162

Applicant(s)

MOTON ET AL.

Examiner

Temica M. Davis

Art Unit

2681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2004.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-56 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed June 8, 2004 have been fully considered but they are not persuasive.

Applicant argues that Hendrey fails to disclose broadcasting a survey to wireless devices prior to knowing the location of the devices, but rather, the system already knows the location of the devices before the survey is sent.

Although this may true, the claim language does not imply that the system cannot know the location of the devices before the survey is sent. Hendrey also discloses that when the advertisement is received at the devices, the devices position are tracked. Such an embodiment reads on the claimed limitations in that the location of the devices are pinpointed/tracked when the advertisement is received (col. 4, lines 27-36, col. 5, lines 2-55).

With regard to the applicants argument that Hendrey and Heinonen are not combinable, the examiner disagrees. Heinonen was only combined with Hendrey to show that advertisements broadcasted to mobile devices can also be considered surveys (Heinonen, col. 3, lines 27-36, col. 3, lines 55-62).

Regarding the applicant's argument regarding that the system does not generate responses containing the location information and wherein the location server uses the responses to execute an action, the examiner does, however, partially agree. Hendrey discloses wherein the location of the devices are pinpointed /tracked as described, and

Art Unit: 2681

is used to execute an action. The action in Hendrey would be the system determining if the prospect has entered a store, or is likely to respond to an advertisement based the users location (col. 5, lines 40-63).

Mansfield et al, U.S. Patent No. 6,477,382 is used below to show that mobile devices can receive a broadcast, and when the broadcast is received, a location system generates location information of the devices.

Based on the above remarks, the claims stand rejected as set forth below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendrey, Heinonen and Mansfield et al (Mansfield), U.S. Patent No. 6,477,382.

Regarding claims 1, 16 and 35, Hendrey discloses a system/method for transmitting information to wireless devices located within a predetermined area served by a wireless communication network comprising: (a) a location server (105; figure 1) in communication the wireless communication network (col. 4, lines 15-19); (b) a wireless device (110) characterized by a location (col. 3, line 66-col. 4, line 1), wherein the wireless device is in communication with the location server (col. 4, lines 5-19); and (c) a location system (105) in communication with the wireless device and the location

Art Unit: 2681

server (col. 4, lines 15-26), wherein the location server broadcasts advertisements to the wireless device (col. 4, lines 27-36), wherein the location system has location information pinpointing the location of the wireless device when the wireless device receives the information as evidenced by the fact that mobile devices movement is tracked (col. 5, lines 2-55), and wherein the location server uses the location information to execute an action (col. 5, lines 40-63).

Hendrey, however, fails to disclose wherein the advertisement is a survey. Hendrey does disclose wherein the connection between the mobile device and the network can be for voice, data or any other purpose known in the art, including a one-time data transfer connection (col. 3, lines 27-36 and col. 3, lines 55-62).

In a similar field of endeavor, Heinonen discloses in a wireless system, an opinion poll utilizing a wireless data transmission connection. Heinonen further discloses wherein the wireless system selects a target group of mobile devices and transmits an opinion poll with one or several questions, an official communication containing a question or an advertisement containing a question (col. 4, lines 1-41).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to modify Hendrey with "survey type" advertisement taught in Heinonen for the purpose of getting viewpoints from wireless device users on information being advertised. Such viewpoints could assist the advertising entity in providing better services or products to the user.

The combination of Hendrey and Heinonen fails to disclose generating responses containing the location information and wherein the location server uses the responses to execute an action.

Mansfield discloses that mobile devices can receive a broadcast, and when the broadcast is received, a location system generates responses containing location information of the devices (col. 16, line 56-col. 17, line 18).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to modify Hendrey and Heinonen with the teachings of Mansfield for the purpose of accurately locating a mobile device.

Regarding claim 2, the combination of Hendrey, Heinonen and Mansfield discloses the system of claim 1, wherein the wireless device is a wireless telephone (Hendrey, col. 3, lines 17-23).

Regarding claim 3, the combination of Hendrey, Heinonen and Mansfield discloses the system of claim 1, wherein the wireless device is an interactive pager (Hendrey, col. 3, lines 17-23).

Regarding claim 4, the combination of Hendrey, Heinonen and Mansfield discloses the system of claim 1, wherein the wireless device is a handheld computer (Hendrey, col. 3, lines 17-23).

Regarding claims 5 and 6, the combination of Hendrey, Heinonen and Mansfield discloses the system of claim 1 as described above. The combination, however, fails to disclose the location system is a GPS receiver provisioned at the wireless device. The

Art Unit: 2681

examiner contends, however, that the location determining means described in these claims are very well known in the art, and the examiner takes official notice as such.

Therefore, at the time of invention, it would have been obvious to a person of ordinary skill in the art to modify the combination of Hendrey, Heinonen and Mansfield with the teachings of well known prior since such techniques of locating mobiles are widely used.

Regarding claim 7, the combination of Hendrey, Heinonen and Mansfield discloses the system of claim 1, wherein the location system is a network-based unit (Hendrey, col. 4, lines 15-19).

Regarding claims 8 and 9, the combination of Hendrey, Heinonen and Mansfield discloses the system of claim 7 as described above. The combination fails to disclose wherein the location system uses GIS or WAP technology.

The examiner contends, however, that this technology is very well known in the art, and the examiner takes official notice as such.

Therefore, at the time of invention, it would have been obvious to a person of ordinary skill in the art to modify the combination of Hendrey, Heinonen and Mansfield with the teachings of well known prior since such technology is used in location systems.

Regarding claim 10, the combination of Hendrey, Heinonen and Mansfield discloses the system of claim 1, further comprising a memory accessible by the location server, wherein the memory storage comprises a database populated with a plurality of

nodes, wherein each of the plurality of nodes is defined inherently by position coordinates (Hendrey, col. 4, lines 20-26).

Regarding claim 11, the combination of Hendrey, Heinonen and Mansfield discloses the system of claim 10, wherein the position coordinates comprise inherently a longitude and a latitude (Hendrey, col. 2, lines 13-37).

Regarding claim 12, the combination of Hendrey, Heinonen and Mansfield discloses the system of claim 1, wherein the location information comprises inherently position coordinates of the wireless device (Hendrey, col. 2, lines 13-37).

Regarding claim 13, the combination of Hendrey, Heinonen and Mansfield discloses the system of claim 12, wherein the position coordinates comprise inherently a longitude and a latitude (Hendrey, col. 2, lines 13-37).

Regarding claim 15, the combination of Hendrey, Heinonen and Mansfield discloses the system of claim 12, wherein the response comprises identity information (Hendrey, col. 5, lines 12-25).

Regarding claim 17, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 16, further comprising the steps of verifying the response is received from a wireless device that is located within the survey area (Hendrey, col. 5, lines 40-65).

Regarding claim 18, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 16, further comprising the step of delineating the survey area (Hendrey, col. 4, lines 15-26).

Regarding claim 19, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 18, wherein the step of delineating the survey area reads on using at least three nodes since multiple businesses can be used (Hendrey, col. 4, lines 51-55).

Regarding claim 20, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 18, wherein each of the at least three nodes is defined inherently by point coordinates (Hendrey, col. 2, lines 13-37).

Regarding claim 21, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 19, wherein the point coordinates comprise inherently a longitude and a latitude (Hendrey, col. 2, lines 13-37).

Regarding claim 22, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 16, wherein the location information comprises point coordinates (Hendrey, col. 2, lines 13-37).

Regarding claim 23, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 21, wherein the point coordinates comprise inherently a longitude and a latitude (Hendrey, col. 2, lines 13-37).

Regarding claim 24, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 16, further comprising the step of delineating the survey area using a node and a radius (Hendrey, col. 7, lines 9-24).

Regarding claim 27, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 16, wherein the query comprises a question directed to a plurality of users of the plurality of wireless devices (Heinonen, col. 6, lines 4-14).

Regarding claim 28, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 27, wherein the response further comprises an answer to the question provided by the plurality of users (Heinonen, col. 6, lines 4-14, 54-65).

Regarding claim 29, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 28 as described above. The combination, however, fails to disclose the answer to the survey being a null response.

The examiner contends however, that such a feature would have been obvious to a person of ordinary skill in the art at the time of invention depending on the type of question(s) asked.

Regarding claim 30, the combination of Hendrey, Heinonen and Mansfield discloses the survey system as described above in similar independent claims 1, 16 and 35. The combination, however, fails to disclose determining the wireless devices position via at least three antennas, wherein each of the at least three antennas has antenna position coordinates; generating device position coordinates for the at least one wireless device using the antenna position coordinates of the at least three antennas.

The examiner contends, however, that the location determining means described (i.e., triangulation) is very well known in the art, and the examiner takes official notice as such.

Therefore, at the time of invention, it would have been obvious to a person of ordinary skill in the art to modify the combination of Hendrey, Heinonen and Mansfield with the teachings of well known prior since such a technique of locating mobiles is widely used.

Regarding claim 31, the combination of Hendrey, Heinonen and Mansfield as modified discloses the method of claim 30, wherein the response further comprises an input from a person using the wireless device (Heinonen, col. 6, lines 58-65).

Regarding claim 32, the combination of Hendrey and Heinonen as modified discloses the method of claim 31, wherein the input comprises inherently a numerical value (via keypad) (Heinonen, col. 6, lines 58-65).

Regarding claim 33, the combination of Hendrey, Heinonen and Mansfield as modified discloses the method of claim 31, wherein the input comprises an alphanumeric message (via keypad) (Heinonen, col. 6, lines 58-65).

Regarding claim 34, the combination of Hendrey, Heinonen and Mansfield as modified discloses the method of claim 31 as described above. The combination, however, fails to disclose wherein the input comprises a voice message. The examiner contends, however, that voice responses are very well known in the art, and at the time of invention, such a feature would have been obvious to a person of ordinary skill in the art for the purpose of verbally giving a response during times when the user may not be able to use the keypad (such as while driving).

Regarding claim 36, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 35, wherein the criterion comprises a match of the identity information and an affiliated wireless device (Hendrey, col. 5, lines 12-25 and Heinonen, col. 6, line 51-col. 7, line 13).

Regarding claim 37, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 35, further comprising the steps of using the location

Art Unit: 2681

information to verify that the wireless device is located within the dispatch area (Hendrey, col. 5, lines 33-65).

Regarding claim 38, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 35, further comprising the steps of using the identify information to verify that the wireless device is an affiliated wireless device (Hendrey, col. 5, lines 33-65).

Regarding claim 39, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 35, further comprising the step of delineating the dispatch area (Hendrey, col. 4, lines 15-26).

Regarding claim 40, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 39, wherein the step of delineating the dispatch area uses at least three nodes (Hendrey, col. 4, lines 51-55).

Regarding claim 41, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 40, wherein each of the at least three nodes is defined by point coordinates (Hendrey, col. 2, lines 13-37).

Regarding claim 42, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 41, wherein the point coordinates comprise a longitude and a latitude (Hendrey, col. 2, lines 13-37).

Regarding claim 43, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 35, wherein the location information comprises point coordinates (Hendrey, col. 2, lines 13-37).

Art Unit: 2681

Regarding claim 44, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 43, wherein the point coordinates comprise a longitude and a latitude (Hendrey, col. 2, lines 13-37).

Regarding claim 45, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 35, further comprising the step of delineating the dispatch area uses a node and a radius (Hendrey, col. 7, lines 9-24).

Regarding claim 46, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 45, wherein the node comprises a longitude and a latitude (Hendrey, col. 2, lines 13-37).

Regarding claim 47, the combination of Hendrey, Heinonen and Mansfield discloses the survey system as described above in similar independent claims 1, 16, 30 and 35. The combination, however, fails to disclose determining the wireless devices position at the wireless device.

The examiner contends, however, that the location determining means described is very well known in the art, and the examiner takes official notice as such.

Therefore, at the time of invention, it would have been obvious to a person of ordinary skill in the art to modify the combination of Hendrey, Heinonen and Mansfield with the teachings of well known prior since such a technique of locating mobiles is widely used.

Regarding claim 48, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 47, wherein the survey parameters comprise a plurality of

times for broadcasting the plurality of queries (Hendrey, col. 4, lines 32-40 and col. 5, lines 19-24).

Regarding claim 49, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 47, wherein the action comprises determining a distribution pattern for the wireless devices in the survey area (Hendrey, col. 5, line 40-col. 6, line 5).

Regarding claim 50, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 47, further comprising the step of delineating the survey area (Hendrey, col. 4, lines 15-26).

Regarding claim 51, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 50, wherein the step of delineating the survey area uses at least three nodes (Hendrey, col. 4, lines 51-55).

Regarding claim 52, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 50, wherein the step of delineating the survey area uses a node and a radius (Hendrey, col. 7, lines 9-24).

Regarding claim 53, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 47, wherein the survey area further comprises a plurality of sections (Hendrey, col. 4, lines 15-26).

Regarding claim 54, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 53, wherein the action comprises determining a distribution pattern of wireless devices in each of the plurality of sections (Hendrey, col. 4, lines 15-44).

Regarding claim 55, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 50, further comprising the step of delineating each of the plurality of sections uses at least three nodes (Hendrey, col. 4, lines 51-55).

Regarding claim 56, the combination of Hendrey, Heinonen and Mansfield discloses the method of claim 50, further comprising the step of delineating each of the plurality of sections using a node and a radius (Hendrey, col. 7, lines 9-24).

4. Claims 14, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendrey and Heinonen as applied to claims 1 and 16 above, and further in view of Yost et al (Yost), U.S. Patent No. 6,560,442.

Regarding claims 14, 25 and 26, the combination of Hendrey, Heinonen and Mansfield discloses the system/method of claims 1 and 16 as described above. The combination, however, fails to disclose determining the number of people/wireless devices in a survey area.

In a similar field of endeavor, Yost discloses a system and method for profiling the location of mobile radio traffic in a wireless network.

Yost further discloses disclose determining the number of people/wireless devices in a survey area (col. 2, line 66-col. 3, line 11).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to modify the combination of Hendrey, Heinonen and Mansfield with the teachings of Yost for the purpose of trying to alleviate congestion in a given area by determining if more resources are needed for the area.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Temica M. Davis whose telephone number is (703) 306-5837. The examiner can normally be reached on Monday-Thursday (alternate Fridays) 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Hudspeth can be reached on (703) 308-4825. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Temica M. Davis
Examiner
Art Unit 2681

September 6, 2004

A handwritten signature in black ink, appearing to read "Temica M. Davis", with a stylized flourish at the end.